

**Confidentiality Agreement**  
**Among the United States, State of South Dakota,**  
**Cyprus Mines Corporation, Cyprus Amax Minerals Company, Homestake Mining**  
**Company of California, Blue Tee Corporation, and CoCa Mines, Inc.**  
**For Settlement Negotiations Related to the Gilt Edge Mine Superfund Site**

This Confidentiality Agreement ("Agreement") is made by the United States of America ("the United States"), the State of South Dakota (the "State"), and Cyprus Mines Corporation ("Cyprus Mines"), Cyprus Amax Minerals Company ("Cyprus Amax"), Homestake Mining Company of California ("Homestake"), Blue Tee Corporation ("Blue Tee"), and CoCa Mines, Inc. ("CoCa Mines")(collectively, the "Participants").

WHEREAS, the United States, on behalf of the United States Environmental Protection Agency, and the State, on behalf of the South Dakota Department of Environment and Natural Resources, contend that they have a cause of action pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. § 9601, *et seq.* ("CERCLA") against Cyprus Mines, Cyprus Amax, Homestake, Blue Tee and CoCa Mines for, *inter alia*, cost recovery/performance of response actions at the Gilt Edge Mine Superfund Site in South Dakota (hereinafter the "Subject Claims") ;

WHEREAS, the Participants wish to avoid unnecessary litigation and promote opportunities for settlement or compromise of the Subject Claims prior to initiation of litigation;

WHEREAS, the Participants recognize that meaningful settlement negotiations will require exchanges of information and opinions, offers of settlement or compromise, and other communications among them;

WHEREAS, the Participants agree that maintaining the confidentiality of Settlement Communications (as defined herein) would generally facilitate the free exchange of information and enhance the likelihood of a successful outcome;

ACCORDINGLY, the Participants wish to provide for the confidentiality of Settlement Communications to the extent provided by, and in accordance with, the terms of this Agreement.

NOW THEREFORE, in consideration of the mutual benefits described above and the mutual covenants contained herein, the Participants agree as follows:

1. For purposes of this Agreement, "Settlement Communications" means: (a) oral settlement discussions among the Participants concerning the Subject Claims that take place after the Effective Date of this Agreement and (b) materials in written or electronic form that are: (i) prepared for purposes of settlement negotiations with respect to the Subject Claims, (ii) exchanged by and among the Participants in settlement negotiations with respect to the Subject Claims after the Effective Date of this Agreement, and (iii) labeled in accordance with Paragraph 3.

2. The Participants are, and this Agreement is binding upon, the United States, the State, Cyprus Mines, Cyprus Amax, Homestake, Blue Tee, CoCa Mines, and their officers, directors, agents, servants, employees, consultants, experts and attorneys.

3. All written or electronic materials that a Participant wishes to have treated as Settlement Communications under this Agreement shall be conspicuously labeled "Settlement Communication - Subject to Confidentiality Agreement" at the time of the exchange; provided however, that the other Participants may dispute, either at the time of designation or later, that

the written or electronic material is a Settlement Communication within the meaning of this Agreement.

4. Any trade secrets or other commercial or financial information provided to the United States or the State by a another Participant that the Participant wishes to protect as Confidential Business Information shall be provided and managed in accordance with 40 C.F.R. Part 2 by the United States and the State without accepting that the documents are in fact Confidential Business Information. To the extent that such information is also a Settlement Communication under this Agreement, such information also shall be handled in accordance with this Agreement.

5. The Participants agree that, except as otherwise provided in this Agreement, they will keep Settlement Communications confidential and not disclose them to persons or entities not party to this Agreement, except as required by law, court order or other lawful process. The Participants further agree to take all necessary and appropriate measures to maintain the confidentiality of Settlement Communications and to retain written or electronic materials in a secure manner.

6. A representative of a Participant who obtains Settlement Communications under this Agreement may share such information with those attorneys or employees of a Participant who in the opinion of such Participant are responsible for these settlement negotiations or for whom such information relates to their official duties, provided that any person with whom such information is shared under this Paragraph shall be specifically made aware of this Agreement. A representative of a Participant who obtains Settlement Communications under this Agreement also may share such information with those consultants and experts of the Participant who are assisting in the negotiations and who, in the opinion of such Participant require access, provided

that any person with whom such information is shared is specifically made aware of, and, prior to receiving the information, agrees in writing to be bound by, the provisions of this Agreement as if he/she were a Participant.

7. Nothing in this Confidentiality Agreement shall limit the authority of a Participant to release information to any person or waive any claim of privilege with respect to any Settlement Communication which does not discuss, refer to, or reveal the substance of these negotiations and of which that Participant is the sole originator. Any Settlement Communication subject to this Agreement may be disclosed to a third person when the provider of the Settlement Communication has given express written permission prior to such disclosure, subject to the notice requirements of Paragraph 9.

8. Information otherwise admissible, discoverable or subject to subpoena in any proceeding shall not be rendered inadmissible, non-discoverable or not subject to subpoena because of its use in these negotiations. Further, this Confidentiality Agreement shall not be construed to prohibit the disclosure of oral communications or written or electronic material already lawfully in the public domain, or developed or existing independent of the Participant's negotiation of the Subject Claims.

9. In the event that a Participant concludes in good faith that applicable law, a subpoena or other lawful process, or a court order, requires disclosure of Settlement Communications to a third party, such Participant shall provide, as far as is practicable, advance written notice to the other Participants of the intent to disclose, including a description of the applicable law or a copy of the subpoena, process or order requiring disclosure. A Participant shall not disclose any Settlement Communication sooner than 30 (thirty) days following provision of such written notice, unless required by law or order of a court.

10. Any disclosure of Settlement Communications in contravention of this Agreement shall not result in a waiver of any Participant's claim of confidentiality, except as provided by law.

11. This Agreement does not affect or change in any manner the confidentiality and/or admissibility of materials, information and communications prepared by or exchanged between or among the Participants in settlement negotiations prior to the Effective Date of this Agreement.

12. Nothing in this Agreement shall be construed to limit the full application of Federal Rule of Evidence 408 to Settlement Communications.

13. Nothing in this Agreement shall be construed to prejudice or limit the right of the United States or the State to take any action to enforce the laws of the United States or the State as applicable, or to protect public health, safety, welfare or the environment. Further, nothing in this Agreement shall be construed to limit the United States and the State from complying with the requirements or established government policies of public participation regarding settlement agreements.

14. Any Participant may terminate its participation in this Agreement by notifying the other Participants in writing of its intention to terminate its participation in this Agreement at least 30 (thirty) days in advance of such termination; provided, however, that the confidentiality and notice obligations imposed under this Agreement shall remain in full force and effect, without regard to whether a Participant has terminated its participation in this Agreement, with respect to all Settlement Communications made or exchanged prior to the date of termination.

15. Upon termination of settlement negotiations, subject to federal recordkeeping requirements and other legal obligations, and upon request by the providing Participant, all

copies of written or electronic materials provided pursuant to this agreement, including all extracts, summaries, or descriptions of the information or portions thereof shall be returned to the provider, or destroyed at the provider's request. Any Participant so requested shall take all reasonable and necessary steps to promptly comply with such request and shall confirm its compliance in writing to the requesting Participant.

16. This Agreement contains the entire agreement among the Participants regarding the confidentiality of Settlement Communications among the Participants, and no statements, promises, or inducements made by any Participant that are not contained herein shall be valid or binding. This Agreement may not be enlarged, modified, or altered except in a writing signed by the Participants.

17. Notwithstanding any other provision in this Agreement, this Agreement shall be admissible in any future administrative or judicial proceeding to prove its terms and conditions.

18. The undersigned representative of each Participant certifies that he or she is authorized to enter into this Agreement and to execute for and bind the Participant whom he or she represents.

19. The Effective Date of this Agreement shall be the date that it is signed by all Participants.

Heidi K. Hoffman

Heidi K. Hoffman, Esq.  
U.S. DEPT OF JUSTICE  
1961 Stout Street, 8<sup>th</sup> Floor  
Denver, CO 80294  
*Attorney for the United States*

Date: 7/27/2010

Roxanne Giedd

Roxanne Giedd, Esq.  
STATE OF SOUTH DAKOTA  
1302 East Highway 14, Suite 1  
Pierre, South Dakota 57501-8501  
*Attorney for the State of South Dakota*

Date: 7-27-10

Dalva L. Moellenberg, Esq.  
GALLAGHER & KENNEDY P.A.  
2575 East Camelback Road  
Phoenix, AZ 85016-9225  
*Attorney for Cyprus Mines Corporation and Cyprus Amax Minerals Company*

Date: \_\_\_\_\_

Gerald F. George, Counsel  
PILLSBURY WINTHROP SHAW PITTMAN LLP  
50 Fremont Street  
San Francisco, CA 94105-2228  
*Attorney for Homestake Mining Company of California*

Date: \_\_\_\_\_

Stanley D. Davis, Esq.  
SHOOK, HARDY & BACON, LLP  
2555 Grand Boulevard  
Kansas City, MO 64108  
*Attorney for Blue Tee Corporation*

Date: \_\_\_\_\_

Joseph Middleton, Esq.  
TEMKIN WIELGA & HARDT LLP  
1900 Wazee Street, Suite 303  
Denver, CO 80202  
*Attorney for CoCa Mines, Inc.*

Date: \_\_\_\_\_

\_\_\_\_\_  
Heidi K. Hoffman, Esq.  
U.S. DEPT OF JUSTICE  
1961 Stout Street, 8<sup>th</sup> Floor  
Denver, CO 80294  
*Attorney for the Unites States*

Date: \_\_\_\_\_

\_\_\_\_\_  
Roxanne Giedd, Esq.  
STATE OF SOUTH DAKOTA  
1302 East Highway 14, Suite 1  
Pierre, South Dakota 57501-8501  
*Attorney for the State of South Dakota*

Date: \_\_\_\_\_

\_\_\_\_\_  
Dalva L. Moellenberg, Esq.  
GALLAGHER & KENNEDY P.A.  
2575 East Camelback Road  
Phoenix, AZ 85016-9225  
*Attorney for Cyprus Mines Corporation  
and Cyprus Amax Minerals Company*

Date: 7/23/10

\_\_\_\_\_  
Gerald F. George, Counsel  
PILLSBURY WINTHROP SHAW PITTMAN LLP  
50 Fremont Street  
San Francisco, CA 94105-2228  
*Attorney for Homestake Mining Company of California*

Date: \_\_\_\_\_

\_\_\_\_\_  
Terri Faye, Esq.  
BABST CALLAND CLEMENTS ZOMNIR, P.C  
1 North Maple Avenue  
Greensburg, PA 15601  
*Attorney for Blue Tee Corporation*

Date: \_\_\_\_\_

\_\_\_\_\_  
Joseph Middleton, Esq.  
TEMKIN WIELGA & HARDT LLP  
1900 Wazee Street, Suite 303  
Denver, CO 80202  
*Attorney for CoCa Mines, Inc.*

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\_\_\_\_\_  
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U.S. DEPT OF JUSTICE  
1961 Stout Street, 8<sup>th</sup> Floor  
Denver, CO 80294  
*Attorney for the Unites States*

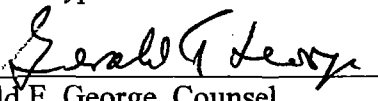
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\_\_\_\_\_  
Roxanne Giedd, Esq.  
STATE OF SOUTH DAKOTA  
1302 East Highway 14, Suite 1  
Pierre, South Dakota 57501-8501  
*Attorney for the State of South Dakota*

Date: \_\_\_\_\_

\_\_\_\_\_  
Dalva L. Moellenberg, Esq.  
GALLAGHER & KENNEDY P.A.  
2575 East Camelback Road  
Phoenix, AZ 85016-9225  
*Attorney for Cyprus Mines Corporation  
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\_\_\_\_\_  
  
Gerald F. George, Counsel  
PILLSBURY WINTHROP SHAW PITTMAN LLP  
50 Fremont Street  
San Francisco, CA 94105-2228  
*Attorney for Homestake Mining Company of California*

Date: 7/13/10

\_\_\_\_\_  
Terri Faye, Esq.  
BABST CALLAND CLEMENTS ZOMNIR, P.C  
1 North Maple Avenue  
Greensburg. PA 15601  
*Attorney for Blue Tee Corporation*

Date: \_\_\_\_\_

\_\_\_\_\_  
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TEMKIN WIELGA & HARDT LLP  
1900 Wazee Street, Suite 303  
Denver, CO 80202  
*Attorney for CoCa Mines, Inc.*

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U.S. DEPT OF JUSTICE  
1961 Stout Street, 8<sup>th</sup> Floor  
Denver, CO 80294  
*Attorney for the Unites States*

Date: \_\_\_\_\_

Roxanne Giedd, Esq.  
STATE OF SOUTH DAKOTA  
1302 East Highway 14, Suite 1  
Pierre, South Dakota 57501-8501  
*Attorney for the State of South Dakota*

Date: \_\_\_\_\_

Dalva L. Moellenberg, Esq.  
GALLAGHER & KENNEDY P.A.  
2575 East Camelback Road  
Phoenix, AZ 85016-9225  
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PILLSBURY WINTHROP SHAW PITTMAN LLP  
50 Fremont Street  
San Francisco, CA 94105-2228  
*Attorney for Homestake Mining Company of California*

Date: \_\_\_\_\_

*Chris M. Davis*  
*Stanley D. Davis*, Esq.  
SHOOK, HARDY & BACON, LLP  
2555 Grand Boulevard  
Kansas City, MO 64108  
*Attorney for Blue Tee Corporation*

Date: 7/23/10

Joseph Middleton, Esq.  
TEMKIN WIELGA & HARDT LLP  
1900 Wazee Street, Suite 303  
Denver, CO 80202  
*Attorney for CoCa Mines, Inc.*

Date: \_\_\_\_\_

\_\_\_\_\_  
Heidi K. Hoffman, Esq.  
U.S. DEPT OF JUSTICE  
1961 Stout Street, 8<sup>th</sup> Floor  
Denver, CO 80294  
*Attorney for the United States*

Date: \_\_\_\_\_

\_\_\_\_\_  
Roxanne Giedd, Esq.  
STATE OF SOUTH DAKOTA  
1302 East Highway 14, Suite 1  
Pierre, South Dakota 57501-8501  
*Attorney for the State of South Dakota*

Date: \_\_\_\_\_

\_\_\_\_\_  
Dalva L. Moellenberg, Esq.  
GALLAGHER & KENNEDY P.A.  
2575 East Camelback Road  
Phoenix, AZ 85016-9225  
*Attorney for Cyprus Mines Corporation and Cyprus Amax Minerals Company*

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\_\_\_\_\_  
Gerald F. George, Counsel  
PILLSBURY WINTHROP SHAW PITTMAN LLP  
50 Fremont Street  
San Francisco, CA 94105-2228  
*Attorney for Homestake Mining Company of California*

Date: \_\_\_\_\_

\_\_\_\_\_  
Terri Faye, Esq.  
BABST CALLAND CLEMENTS ZOMNIR, P.C  
1 North Maple Avenue  
Greensburg, PA 15601  
*Attorney for Blue Tee Corporation*

Date: \_\_\_\_\_

\_\_\_\_\_  
Joseph Middleton, Esq.  
TEMKIN WIELGA & HARDT LLP  
1900 Wazee Street, Suite 303  
Denver, CO 80202  
*Attorney for CoCa Mines, Inc.*

Date: 7/2/10

Andrea Madigan

Andrea Madigan, Esq.

U.S. ENVIRONMENTAL PROTECTION AGENCY

1595 Wynkoop Street

Denver, CO 80202

*Attorney for EPA Region 8*

Date: 7/27/10